

will not be subject to prosecution under the nation's environmental statutes. I would ask to have printed in the RECORD a letter from Dr. D. James Baker, Under Secretary for Oceans and Atmospheres, which addresses this issue.

I am pleased that the administration was able to provide this assurance so that fishermen acting as Good Samaritans will not be treated unfairly by our laws. With this commitment from the administration, whale disentanglement efforts will be able to expand, improving the welfare and survival of these marine mammal populations.

The letter follows:

U.S. DEPARTMENT OF COMMERCE,  
THE UNDER SECRETARY FOR OCEANS AND  
ATMOSPHERE,  
Washington, DC, May 20, 1997.

Hon. OLYMPIA J. SNOWE,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR SNOWE: I am aware of the recent proposals to amend the Marine Mammal Protection Act (MMPA) with a so-called "Good Samaritan" exemption, to allow the taking of a marine mammal if the taking is necessary to avoid injury or death to an animal entangled in fishing gear or debris.

I am also aware that such a taking could be a violation of the Endangered Species Act (ESA), if the animal is listed as endangered or threatened under that statute. The National Oceanic and Atmospheric Administration (NOAA) believes that Section 10(a)(1)(A) of the Endangered Species Act authorizes the Secretary to permit the taking of an endangered marine mammal in accordance with the conditions contained in the Snowe-Kerry "Good Samaritan" amendment. I am writing to you to express the commitment of NOAA to take the most appropriate administrative action under Section 10(a)(1)(A) of the ESA, to allow a "Good Samaritan" taking of an entangled marine mammal in the circumstances specified in the proposed MMPA amendment, specifically with regard to large whales.

Thank you for your efforts to rationalize interactions between the fishing industry and marine mammals.

Sincerely,

D. JAMES BAKER.●

#### ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I ask unanimous consent I be recognized to present the normal wrapup. Following that time, I have 5 minutes, then Senator CONRAD will present his speech, and following his speech, the Senate will stand in adjournment pursuant to the requests outlined.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MAKING MAJORITY PARTY ASSIGNMENTS TO COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Senate Resolution 89 submitted earlier by Senator LOTT which would make majority party committee appointments, and further the resolution be adopted and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 89) was agreed to.

The resolution is as follows:

*Resolved*, That notwithstanding the restrictions contained in Rule 25, the following shall be the majority party's membership on the Governmental Affairs Committee for the 105th Congress, or until their successors are chosen:

Committee on Governmental Affairs: Mr. Thompson (Chair), Ms. Collins, Mr. Brownback, Mr. Domenici, Mr. Cochran, Mr. Nickles, Mr. Specter, Mr. Smith (N.H.) and Mr. Bennett.

#### MEASURE REFERRED TO COMMITTEE

Mr. STEVENS. Mr. President, I ask unanimous consent the Energy Committee be discharged from further consideration of S. 156 and the bill be referred to the Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MEASURE READ THE FIRST TIME—H.R. 1306

Mr. STEVENS. Mr. President, I understand that H.R. 1306 has arrived from the House and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1306) to amend the Federal Deposit Insurance Act to clarify the applicability of host State laws to any branch in such State of an out-of-State bank.

Mr. STEVENS. I now ask that the bill be given its second reading, and I object on behalf of a Member on the other side of the aisle.

The PRESIDING OFFICER. There is an objection. This bill will be read for the second time on the next legislative day.

#### VOLUNTEER PROTECTION ACT OF 1997

Mr. STEVENS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on (S. 543) a bill to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 543) entitled "An Act to provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers", do pass with the following amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

##### SECTION 1. SHORT TITLE.

This Act may be cited as the "Volunteer Protection Act of 1997".

##### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) clarifying and limiting the liability risk assumed by volunteers is an appropriate subject for Federal legislation because—

(A) of the national scope of the problems created by the legitimate fears of volunteers about frivolous, arbitrary, or capricious lawsuits;

(B) the citizens of the United States depend on, and the Federal Government expends funds on, and provides tax exemptions and other consideration to, numerous social programs that depend on the services of volunteers;

(C) it is in the interest of the Federal Government to encourage the continued operation of volunteer service organizations and contributions of volunteers because the Federal Government lacks the capacity to carry out all of the services provided by such organizations and volunteers; and

(D)(i) liability reform for volunteers, will promote the free flow of goods and services, lessen burdens on interstate commerce and uphold constitutionally protected due process rights; and

(ii) therefore, liability reform is an appropriate use of the powers contained in article 1, section 8, clause 3 of the United States Constitution, and the fourteenth amendment to the United States Constitution.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

##### SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity.

(b) ELECTION OF STATE REGARDING NON-APPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply, as of a date certain, to such civil action in the State; and